

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the matter of )  
 )  
Amendment of Part 90 of the )  
Commission's Rules to Adopt )  
Regulations for Automatic )  
Vehicle Monitoring Systems )

PR Docket 93-61

TO: The Commission

DOCKET FILE COPY ORIGINAL

PETITION FOR PARTIAL RECONSIDERATION

Pinpoint Communication Networks, Inc. (Pinpoint),  
through counsel and pursuant to Section 1.429 (47 C.F.R. §1.429)  
of the Federal Communications Commission's (Commission) Rules  
hereby petitions for reconsideration of the Commission's March  
21, 1996, "Order on Reconsideration"<sup>1/</sup> in the above referenced  
docket which discusses LMS standards for avoiding interference to  
unlicensed Part 15 users in the 902-928 MHz band. Pinpoint is a  
grandfathered LMS licensee and thus is directly affected by the  
Commission's LMS Reconsideration Order.

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<sup>1/</sup> PR Docket No. 93-61, FCC 96-115, Released March 21, 1996, 61  
FR 18981 (April 30, 1996). (Hereinafter, "Reconsideration  
Order".)

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I.     The Commission Has Effectively Eliminated Part 15  
          Operators' Secondary Status In the LMS Band.

While the Commission is interested in determining whether LMS system testing can result in the "fine-tuning" of system operations and the "co-existence of various services in the band"<sup>2/</sup>, the Commission on reconsideration effectively eliminated Part 15 operators' secondary status in the band. Specifically, the Commission set out a new standard for protecting Part 15 devices, which is more protective than any secondary or primary service enjoys:

Further, the Commission seeks to ensure not only that Part 15 operators refrain from causing harmful interference to LMS systems, but also that LMS systems are not operated in such a manner as to degrade, obstruct or interrupt Part 15 devices to such an extent that Part 15 operations will be negatively affected.<sup>3/</sup>

Pinpoint objects to and requests reconsideration and clarification of this new standard.

The Reconsideration language is inconsistent with a Part 15 licensee's secondary status in the 902-928 MHz band<sup>4/</sup> and

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<sup>2/</sup>     "Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems" Report and Order, PR Docket No. 93-61  10 FCC Rcd. 4695 (Feb 6, 1995) (Hereinafter "LMS Order").

<sup>3/</sup>     Reconsideration Order, para. 15. (emphasis added).

<sup>4/</sup>     47 C.F. R. § 15.5(b).

with the Commission's confirmation of that secondary status in the original LMS Order:

Thus, we affirm that unlicensed Part 15 devices in the 902-928 MHz band, as in any other band, may not cause harmful interference to and must accept interference from all other operations in the band; persons operating unlicensed Part 15 devices have no vested or recognizable right to continued use of any given frequency; and finally, an operator of an unlicensed Part 15 device is required to cease operations upon notification by a Commission representative that the device is causing harmful interference and may not resume operations until the condition causing the harmful interference has been corrected.<sup>5/</sup>

The 1995 LMS Order tracked the rules and required that Part 15 devices "must accept interference"<sup>6/</sup> from LMS operations, even while LMS systems undertake testing to attempt to reduce levels of interference.<sup>7/</sup> On the other hand, the Reconsideration Order requires LMS operators not to "degrade, obstruct, ...interrupt" or "negatively affect" Part 15 operations.<sup>8/</sup>

These two inconsistent standards will create years of litigation before the Commission. The Commission's pronouncements leave the LMS industry vastly confused over the standards to which it will be held.

For example, the new standards apparently are:

1. Part 15 devices cannot be "negatively affected" by LMS devices;

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<sup>5/</sup> 10 FCC Rcd at 4714.

<sup>6/</sup> Id.

<sup>7/</sup> See 10 FCC Rcd. 4737, para 82.

<sup>8/</sup> Reconsideration Order, ¶ 15

2. LMS operations must not "degrade" Part 15 devices;
3. LMS operations must not "interrupt" Part 15 operations;
4. LMS operations must not "obstruct" Part 15 operations;<sup>9/</sup>

In contrast, harmful interference which secondary services such as Part 15 must accept includes interference which:

seriously degrades, obstructs or repeatedly interrupts a radiocommunication service...<sup>10/</sup>

A Part 15 operator can now claim substantial interference any time its operation is "negatively affected" by LMS operations. Similarly, any time a Part 15 operation is "degraded" (e.g., subject to some additional noise from spread spectrum LMS operations, as might be typical in wireless audio sound systems), or "interrupted", even if only once, then LMS operations are threatened.

The LMS industry is willing to work with the Part 15 industry, but must have precise guidance on whether Part 15 devices must accept interference from LMS operations as required by Sections 15.5(b) and 15.3(m) of the Rules. If LMS must provide the level of protection required in the Reconsideration Order, then LMS will never be able to withstand the complaints of

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<sup>9/</sup> Reconsideration Order, Paragraph 15.

<sup>10/</sup> 47 C.F.R. § 15.3(m), quoted at 10 FCC Rcd. 4715.

"millions of part 15 devices in operation throughout the United States today..."<sup>11/</sup>. If, based on the Reconsideration Order language at Paragraph 15, Part 15 devices must no longer accept interference from LMS operations, as provided at 47 CFR §15.5(b) and in the LMS Order, 10 FCC Rcd. 4714, then LMS operations are at a decided disadvantage in this band.

By expanding the scope of interference protection for Part 15 devices, the Commission has also adversely affected the public interest in providing rapid, nationwide LMS service to the public through auctions. This new standard reduces the attractiveness of the band to potential investors, because it further reduces the expectations of band exclusivity and increases the LMS MTA operators' costs for interference protection, complaints under the new standards from Part 15 devices, and will substantially increase the cost of LMS operations, system design and implementation.

## II. Conclusion

The Commission should clarify and reaffirm Part 15 operations as a secondary service to avoid years of protracted complaints and litigation in this band, and create a reasonable opportunity for successful LMS operations in the band.

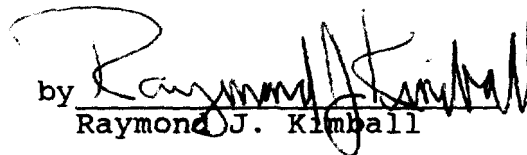
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<sup>11/</sup> 10 FCC Rcd. at 4712.

WHEREFORE, the premises considered, Pinpoint Communication Networks, Inc., respectfully requests that the Commission reconsider Paragraph 15 of its Order on Reconsideration in this Docket, and clarify that Part 15 operations are secondary to LMS operations, notwithstanding LMS obligations to undertake testing and attempt to work with the Part 15 interests in this band.

Respectfully submitted,

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by   
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May 30, 1996

CERTIFICATE OF SERVICE

I, Diane Graham, a secretary in the law offices of ROSS & HARDIES, caused to be served via hand delivery this 30th day of May, 1996, copies of the foregoing "Petition for Partial Reconsideration" in PR Docket 93-61 on the following:

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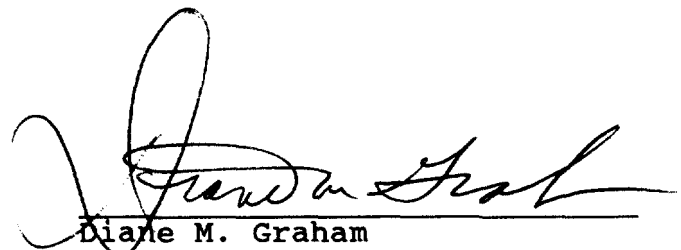
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